

AMENDED IN SENATE APRIL 27, 2009

AMENDED IN SENATE MARCH 31, 2009

**SENATE BILL**

**No. 137**

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**Introduced by Senator Maldonado**

February 10, 2009

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An act to ~~amend Section 19341~~ of *add Section 19341.5* to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 137, as amended, Maldonado. Income tax: overpayments: interest.

Existing income and corporation tax laws require the payment of interest on overpayments of tax, except that no interest is required if the overpayments are refunded or credited within specified 90-day time periods.

This bill would provide that, in the case of any individual or fiduciary taxable under the Personal Income Tax Law ~~for taxable years beginning on or after January 1, 2008, no interest shall be allowed on any overpayments that are refunded or credited within 60 days after the return is filed, in the circumstance in which the Controller makes a specified determination, interest shall be allowed and paid on refund warrants that are delayed, as provided.~~

This bill would make a legislative finding and declaration regarding the public purpose served by the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 19341.5 is added to the Revenue and*  
2     *Taxation Code, to read:*

3     19341.5. (a) *Notwithstanding Section 19341, for individuals*  
4     *subject to tax under Part 10 (commencing with Section 17001), if*  
5     *the Controller has determined that a cash management emergency*  
6     *exists and postpones the issuance of refund warrants as a result*  
7     *of that determination, then interest shall be allowed and paid on*  
8     *refund warrants that are delayed by the action of the Controller*  
9     *in accordance with subdivisions (b) and (c).*

10    (b) *Notwithstanding Sections 19002, 19351, and 19363, interest*  
11    *shall be allowed and paid on the overpayment at the adjusted*  
12    *annual rate established pursuant to Section 19521 for the period*  
13    *otherwise prohibited under Section 19341, beginning 15 days after*  
14    *the date a return is filed, or 15 days after the date the issuance of*  
15    *refund warrants is postponed, whichever is later, and ending on*  
16    *a date not more than 30 days preceding the date the refund warrant*  
17    *is issued as determined by the Franchise Tax Board.*

18    (c) *This section shall be applicable to all refund warrants*  
19    *postponed under subdivision (a) after February 1, 2009.*

20    ~~SECTION 1. Section 19341 of the Revenue and Taxation Code~~  
21    ~~is amended to read:~~

22    ~~19341. (a) Except as provided in subdivisions (b), (c), and (d),~~  
23    ~~if any overpayment of tax is refunded or credited within 90 days~~  
24    ~~after the return is filed, or within 90 days after the last day~~  
25    ~~prescribed for filing the return of tax (determined without regard~~  
26    ~~to any extension of time for filing the return), whichever is later,~~  
27    ~~no interest shall be allowed under Section 19340 on the~~  
28    ~~overpayment.~~

29    ~~For the purposes of this section, "overpayment of tax" includes~~  
30    ~~a refund in excess of tax liability as prescribed in subdivision (j)~~  
31    ~~of Section 17053.5.~~

32    ~~(b) In the case of returns which set forth no determination or~~  
33    ~~amount of tax liability, or credits other than that allowed under~~  
34    ~~Section 17053.5, and which are filed solely for the purpose of~~  
35    ~~claiming the renter credit, no interest shall be allowed on refunds~~  
36    ~~made within 90 days from the date on which the return is filed, or~~  
37    ~~within 90 days after the last day prescribed for filing the return,~~  
38    ~~whichever is later. This subdivision applies only when~~

1 communication with the claimant or other verification is necessary  
2 to determine entitlement to the claimed credit.

3 (e) ~~Except as provided in subdivisions (b) and (d), in the case~~  
4 ~~of an individual or fiduciary taxable under Part 10 (commencing~~  
5 ~~with Section 17001), for the 2008 taxable year and each taxable~~  
6 ~~year thereafter, no interest shall be allowed under Section 19340~~  
7 ~~on any overpayment of tax that is refunded or credited within 60~~  
8 ~~days after the return is filed.~~

9 (d) ~~In the case of a return of tax which is filed after the last date~~  
10 ~~prescribed for filing the return (determined with regard to~~  
11 ~~extensions), no interest shall be allowed or paid for any day before~~  
12 ~~the date on which the return is filed.~~

13 SEC. 2. The Legislature finds and declares that the interest  
14 allowed to taxpayers by this act with respect to ~~the 2008 taxable~~  
15 ~~year~~ *refunds postponed after February 1, 2009*, serves a public  
16 purpose and does not constitute a gift of public funds within the  
17 meaning of Section 6 of Article XVI of the California Constitution.